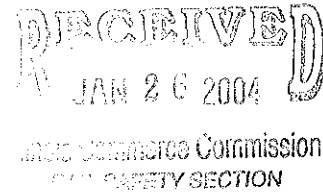


ORIGINAL

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION



ILLINOIS DEPARTMENT OF TRANSPORTATION, )  
 )  
Petitioner, )  
 )  
v. )  
 )  
NORFOLK SOUTHERN RAILWAY COMPANY, )  
 )  
Respondent. )  
 )  
Petition to designate crossing DOT/AAR No. 543- )  
304R, which traverses Illinois Route 54 as exempt )  
pursuant to 625 ILCS 5/11-1202; situated in the City )  
of Farmer City, Dewitt County, Illinois. )

Docket No. T03-0006

**Motion To Set Hearing**

Now Comes Petitioner, Illinois Department of Transportation ("Department") by and through its attorney, Lisa Madigan, Illinois Attorney General, and in support of its Motion states as follows:

1. On January 27, 2003, the Department filed a Petition with the Illinois Commerce Commission seeking permission to designate crossing DOT/AAR No. 543-304R as exempt.
2. On January 29, 2003, Chief Administrative Law Judge issued a Notice of Hearing setting this matter for March 13, 2003.
3. On or around February 11, 2003, Attorney Neil Flynn filed his Appearance on behalf of Respondent Norfolk Southern Railway Company ("NS").
4. On or around March 6, 2003, the City Manager, Donald D. Crawford, sent a letter to Chief Administrative Law Judge Korte expressing the City's concurrence with the relief sought by the Department in its Petition.
5. On March 7, 2003, at the request of Attorney Neil Flynn and on behalf of Respondent NS, Chief Administrative Law Judge continued this matter until further order.
6. The Department agreed to the continuance based on statements made by the NS, which lead the Department to believe that a Petition would be filed by the NS in the

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near future addressing not only the crossing in question but also approximately thirty (30) other crossings similarly situated and located along the same line.

7. At least ten (10) months have passed since this cause was put on hold and no Petition has been filed by the NS resolving the exempt issue at this crossing or any of the other thirty (30) crossings suggested by the NS.

8. The Department has not received any explanation from the NS for this lengthy delay nor has it been advised of any progress made in this regard.

9. The Department believes it has been more than patient and in the interest of public safety and convenience believes it can not delay addressing the relief sought in the underlying Petition any longer.

WHEREFORE, the Petitioner, Illinois Department of Transportation, respectfully requests that a ruling be issued by the Chief Administrative Law Judge setting this matter down for hearing.

Respectfully Submitted,  
ILLINOIS DEPARTMENT OF TRANSPORTATION

By: Lisa Madigan  
Attorney General

By: Stacey C. Holo  
Stacey C. Holo *LB*  
Special Assistant Attorney General

Dated: January 21, 2004  
Illinois Department of Transportation  
Office of Chief Counsel  
2300 South Dirksen Parkway, Room 300  
Springfield, Illinois 62764  
Phone (217) 782-0692

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

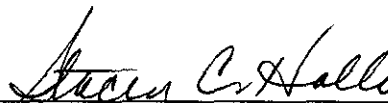
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of Farmer City, Dewitt County, Illinois. )

Docket No. T03-0006

**NOTICE OF FILING**

TO: Neil F. Flynn, Atty  
Sandy Shaw, City Clerk  
Delwin Kirby, Mayor

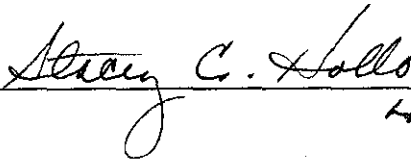
PLEASE TAKE NOTICE that I have this 21st day of January, 2004,  
forwarded to Mr. Kevin Sharpe, Director of Processing, Transportation Division,  
of the Illinois Commerce Commission, Springfield, Illinois, for filing in the above  
matter, a Motion To Set Hearing, a copy of which is attached hereto and hereby  
served upon you.

  
\_\_\_\_\_  
Stacey C. Hollo  
Special Assistant Attorney General  
2300 South Dirksen Parkway  
Room 300  
Springfield, Illinois 62764  
(217) 782-0692

Counsel for the Illinois  
Department of Transportation

## PROOF OF SERVICE

The undersigned hereby certifies that copies of the foregoing instruments were served upon the addressees listed below by mailing true and correct copies via first class mail, postage pre-paid and depositing the same in the United States Mail, Springfield, Illinois, this 21st day of January, 2004:

  
\_\_\_\_\_

Neil F. Flynn  
Attorney at Law  
1035 South Second Street  
P.O. Box 37  
Springfield, IL 62705-0261

Delwin Kirby, Mayor  
City of Farmer City  
105 S. Main  
Farmer City, IL 61842-0049

Sandy Shaw  
City Clerk  
City of Farmer City  
105 South Main  
Farmer City, IL 61842